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EXAMINER

PARRY, CHRISTOPHER L

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/738,419	Applicant(s) BOCCON-GIBOD ET AL.	
	Examiner CHRIS PARRY	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/10/05, 3/05/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Claims 1-28 corresponding to figure 4B in the reply filed on 22 February 2008 is acknowledged.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: **330** and **332** shown in figures 3 and 4B; **311** shown in figure 4B; **505** and **510** shown in figure 5a; and **745** and **750** shown in figure 7. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters **"335"** and **"340"** have both been used to designate CONTROLLER shown in figures 3 and 4b. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters **"235"** and **"240"** have both been used to designate CONTROLLER shown in figure 4a. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 10, 25, 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Elenbaas et al. "Elenbaas" (US Pub. No. 2005/0028194 A1).

Regarding Claim 1, Elenbaas discloses a method for buffering in a media recorder, the method comprising the steps of: determining at least one program of interest to a user (§§ 30-31 and 40); and buffering a portion of said one program (§§ 18 and 31).

Elenbaas teaches identifying a news program of interest to the user or "at least one program of interest" and buffering a portion of the news program and storing the portion in storage device 115 (§§ 30-31 and 42).

As for Claim 10, Elenbaas teaches wherein the program is not selected by the user (§§ 18). Elenbaas discloses a system what classifies portions of a news program

and stores the identified portions that match user preferences automatically in storage device 115.

Regarding Claim 25, Elenbaas discloses a system (figure 1) for predictive buffering in a media recorder, the system comprising:

a predictive program selection subsystem (100 – figure 1; ¶ 18), wherein the predictive program selection subsystem selects at least one program of interest to a user (¶ 30-31 and 40);

a buffering subsystem (115 – figure 1; ¶ 18) that buffers a portion of said one program (¶ 31).

Elenbaas teaches identifying a news program of interest to the user or "at least one program of interest" and buffering a portion of the news program and storing the portion in storage device 115 (¶ 30-31 and 42).

Regarding Claim 27, Elenbaas discloses a system (figure 1) for predictive buffering in a media recorder, the system comprising:

a predictive channel selection subsystem (100 - figure 1; ¶ 18) that selects at least one channel of interest to a user (¶ 30-31 and 40);

a buffering subsystem (115 – figure 1; ¶ 18) that buffers said one channel (¶ 31).

Elenbaas teaches identifying a news program of interest to the user or "at least one program of interest" and buffering a portion of the news program and storing the portion in storage device 115 (¶ 30-31 and 42).

7. Claims 11-15, 17, and 25-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams et al. "Williams" (USPN 5,977,964).

Regarding Claim 11, Williams discloses a method (figure 5) for buffering in a media recorder (100—figure 1), the method comprising the steps of: determining, within a timeslot, at least one channel of interest to a user, wherein said channel has not been preselected by the user for recording (Col. 13, lines 4-46); buffering a portion of a program on said channel (Col. 13, lines 47-62).

Williams teaches the system controller determines whether a program of interest, a program normally recorded by the user, is scheduled to be recorded at a specific time slot on a certain day of the week, and if the system controller determines the program is not scheduled to be recorded, the system controller automatically buffers the program for the user.

As for Claim 12, Williams teaches wherein the step of determining said one channel is based on a list of channels most recently viewed by the user (Col. 13, lines 13-19). Williams teaches identifying a channel that is watched every day for at least a certain number of days.

As for Claim 13, Williams teaches wherein the step of determining said one channel is a predictive process based on a frequency measure of channels watched within the same timeslot of a previous day (Col. 13, lines 13-19).

As for Claim 14, Williams teaches wherein the step of determining said channel is a predictive process based on a frequency measure of channels watched within the same timeslot of a previous week (Col. 13, lines 13-24).

As for Claim 15, Williams teaches wherein the step of determining said channel is a predictive process based on the genre of channels being watched and previously watched (Col. 6, line 63 to Col. 7, line 2).

As for Claim 17, Williams teaches wherein the buffering is terminated at the end of the timeslot (Col. 13, lines 13-46). Williams teaches if a program is normally recorded from 5:00 pm to 5:30 pm but there is no scheduled recording, system controller will automatically buffer the program during that time slot for the user and stop at the end of the time slot.

Regarding Claim 25, Williams discloses a system (100 – figure 1) for predictive buffering in a media recorder, the system comprising:

a predictive program selection subsystem (104 – figure 1; Col. 3, lines 6-38), wherein the predictive program selection subsystem selects at least one program of interest to a user (Col. 8, lines 41-46; Col. 11, lines 27-42);

a buffering subsystem (106 – figure 1; Col. 3, lines 50-52) that buffers a portion of said one program (Col. 12, lines 8-21; Col. 17, lines 7-33).

Williams teaches that although the system can prompt the user to record a program that matches the user's interests, it may also automatically record the program on the user's behalf.

As for Claim 26, Williams teaches the system of claim 25, further comprising: a subsystem that determines the identity of the user (Col. 9, line 18 to Col. 10, line 39).

Regarding Claim 27, Williams discloses a system (100 – figure 1) for predictive buffering in a media recorder, the system comprising:

a predictive channel selection subsystem (104 - figure 1; Col. 3, lines 6-38) that selects at least one channel of interest to a user (Col. 8, lines 41-46; Col. 11; lines 7-33);

a buffering subsystem (106 – figure 1; Col. 3, lines 50-52) that buffers said one channel (Col. 12, lines 8-21; Col. 17, lines 7-33).

Williams teaches that although the system can prompt the user to record a program that matches the user's interests, it may also automatically record the program on the user's behalf.

As for Claim 28, Williams teaches the system of claim 27, further comprising: a user identifying subsystem that identifies a watching user (Col. 9, line 18 to Col. 10, line 39).

8. Claims 19 and 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Mekenkamp et al. "Mekenkamp" (US Pub. No. 2004/0091249 A1).

Regarding Claim 19, Mekenkamp discloses a method (figure 3) for predictive buffering of programs in a media recorder (PVR A – figure 1), the method comprising the steps of:

receiving a first signal containing a first set of television programs at a first receiving subsystem ("tuner 1" 52 - figure 1) (§ 0021, 0030 and 0031);

receiving a second signal containing a second set of television programs at a second receiving subsystem ("tuner 2" 54 – figure 1) (§ 0021, 0030 and 0031);

buffering at least a portion of one program from the first set of television programs (i.e., buffer channel designated as being of predominant interest in TSB 82) while presenting at least one program from the second set of television programs (i.e., output user selected channel to output 70, user selected channel not being channel designated as channel of predominant interest) (§ 0025, 0031, and 0010).

As for Claim 21, Mekenkamp teaches wherein selection of the at least one program (i.e., channel of predominant interest) from the first set of television programs is based on input from the user (§ 0025).

As for Claim 22, Mekenkamp discloses a method for buffering in a media recorder (PVR A – figure 1), the method comprising the steps of:

identifying a program of interest to a user (i.e., a channel selected by user), said program having a first duration (i.e., first duration equals length of program on selected channel) (§ 0023); and

buffering said program for a second duration (i.e., buffer said program for duration of a pause event during live TV) that is shorter than said first duration (i.e., pause event being shorter than duration of program), whereby only a portion of said program is buffered (§ 0023-0024).

As for Claim 23, Mekenkamp teaches the method of claim 22 further comprising sensing that the user has started to watch said program (i.e., user ends pause event), and in response, continuing to buffer a current portion of the program as the user is watching a previously buffered portion of the program (§ 0023).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elenbaas in view of Williams.

As for Claim 2, Elenbaas is silent on disclosing wherein the step of determining said one program is a predictive process based on a frequency measure of previously watched programs.

In an analogous art, Williams discloses determining said one program is a predictive process based on a frequency measure of previously watched programs (Col. 6, line 63 to Col. 7, line 2). Williams discloses a user profile database 800 which is used to store user preference information such as user preferred channels, favorite programs, and preferred watching periods (Col. 5, lines 52-64). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Elenbaas to include determining said one program is a predictive process based on a frequency measure of previously watched programs as taught by Williams for the benefit of configuring the user's system based on monitored interaction and observed habits.

As for Claim 3, Elenbaas is silent on disclosing wherein the step of determining said one program of interest is a predictive process based on specific programs watched.

In an analogous art, Williams discloses wherein the step of determining said one program of interest is a predictive process based on specific programs watched (i.e., top ten favorite shows) (Col. 6, line 63 to Col. 7, line 2). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Elenbaas to include wherein the step of determining said one program of

interest is a predictive process based on specific programs watched as taught by Williams for the benefit of configuring the user's system based on monitored interaction and observed habits.

As for Claim 4, Elenbaas is silent on disclosing wherein the step of determining said one program of interest is a predictive process based on the genre of programs watched.

In an analogous art, Williams discloses wherein the step of determining said one program of interest is a predictive process based on the genre of programs watched (i.e., favorite genres) (Col. 5, line 52 to Col. 6, line 24 and Col. 6, line 63 to Col. 7, line 2). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Elenbaas to include wherein the step of determining said one program of interest is a predictive process based on the genre of programs watched as taught by Williams for the benefit of configuring the user's system based on monitored interaction and observed habits.

11. Claim 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elenbaas in view of Sezan et al. "Sezan" (US Pub. No. 2004/0268389 A1).

As for Claim 5, Elenbaas is silent on disclosing wherein the step of determining said one program of interest is a predictive process based on the recommendations of other users.

In an analogous art, Sezan discloses wherein the step of determining said one program of interest is a predictive process based on the recommendations of other users (i.e. movie critics Siskel and Ebert) (§ 246). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify wherein the step of determining said one program of interest is a predictive process based on the recommendations of other users as taught by Sezan for the benefit of filtering program descriptions based on reviews and recommendations of a program of interest.

12. Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elenbaas in view of Sezan as applied to claim 5 above, and further in view of Ismail et al. "Ismail" (USPN 7,146,627).

As for Claims 6 and 8, Elenbaas and Sezan are silent on disclosing wherein the recommendations of other users are extracted from Web Log entries and online reviews.

In an analogous art, Ismail discloses wherein the recommendations of other users are extracted from Web Log entries and online reviews (Col. 20, lines 46-59). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Elenbaas and Sezan to include wherein the recommendations of other users are extracted from Web Log entries as taught by Ismail for the benefit of gathering more user preferences from other sources.

13. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elenbaas in view of Sezan as applied to claim 5 above, and further in view of Abramson (US Pub. No. 2005/0034151 A1).

As for Claims 7 and 9, Elenbaas and Sezan fail to disclose wherein the recommendations of other users are extracted from one or more messages from an instant messaging service or email messages.

In an analogous art, Abramson disclose wherein the recommendations of other users are extracted from one or more messages from an instant messaging service or email messages (§ 56). By disclosing uses can send recommendations by email or instant message, Abramson teaches recommendations from other users are extracted from an instant message or email message. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Elenbaas and Sezan to include wherein the recommendations of other users are extracted from one or more messages from an instant messaging service or email as taught by Abramson for the benefit of collecting more information regarding upcoming programs.

14. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of Sezan.

As for Claim 16, Williams is silent on disclosing wherein the step of determining said channel is a predictive process based on recommendations.

In an analogous art, Sezan teaches wherein the step of determining said channel is a predictive process based on recommendations (i.e. reviews by Siskel and Ebert) (§ 246). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Williams to include wherein the step of determining said channel is a predictive process based on recommendations as taught by Sezan for the benefit of filtering program descriptions based on reviews and recommendations of a program of interest.

15. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of Rodriguez (US Pub. No. 2003/0110500 A1) [cited in applicant's IDS].

As for Claim 18, Williams is silent on disclosing wherein the buffering of the portion of a program on said channel continues until a channel of higher interest is found, after which the buffering commences of a portion of a program on said channel of higher interest.

In an analogous art, Rodriguez discloses wherein the buffering of the portion of a program on said channel continues until a channel of higher interest is found, after which the buffering commences of a portion of a program on said channel of higher interest (§§ 147-149). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Williams to include wherein the buffering of the portion of a program on said channel continues until a channel of higher interest is found, after which the buffering commences of a portion of

a program on said channel of higher interest as taught by Rodriguez for the benefit of providing the user with channels that are more appealing to the user.

16. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mekenkamp in view of Williams.

As for Claim 20, Mekenkamp fails to specifically disclose wherein selection of the at least one program from the first set of television programs is based on a predictive process.

In an analogous art, Williams discloses wherein selection of the at least one program from the first set of television programs is based on a predictive process (Col. 3, lines 6-38; Col. 8, lines 41-46 and Col. 11, lines 27-42). Williams teaches that although the system can prompt the user to record a program that matches the user's interests, it may also automatically record the program on the user's behalf. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Mekenkamp to include wherein selection of the at least one program from the first set of television programs is based on a predictive process as taught by Williams for the benefit of automatically selecting a program of interest based on a user's system interaction and preferred system access times.

17. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mekenkamp in view of Elenbaas.

As for Claim 24, Mekenkamp teaches the method of claim 22 further comprising identifying a second program (i.e., user designates a channel of predominant interest) and buffering said second program (i.e., designated channel is routed through TSB 82) (§§ 0023-0025). However, Mekenkamp fails to specifically disclose buffering said second program at the end of said second duration.

In an analogous art, Elenbaas discloses a method for identifying a plurality of news segments 111 of interest to a user within a video stream, wherein news segments 111 of interest are buffered and stored to a storage device 115 (§§ 0018). Further, Elenbaas discloses monitoring multiple broadcast channels and news programs (§§ 0022), wherein the classification system shown in figure 1 is capable of buffering a portion of a first news program until the portion ends and then identifying a second news program of interest to the user and automatically buffering a portion of the second news program and storing the portion in storage device 115 based on a user profile (§§ 30-31, 40, and 42). Thus, Elenbaas discloses the desirability to identify a second program or “second news program” of interest and buffering said second program at the end of a first program or “first news program” of interest to the viewer after buffering a segment within the first program. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Mekenkamp to include buffering said second program at the end of said second duration as taught by Elenbaas for the predictable result of identifying a program of interest to the user and buffering said program at the conclusion of the previous program.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRIS PARRY whose telephone number is (571) 272-8328. The examiner can normally be reached on Monday through Friday, 8:00 AM EST to 4:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CHRIS PARRY

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Examiner
Art Unit 2623

/C. P./
Examiner, Art Unit 2623

/Christopher Grant/
Supervisory Patent Examiner, Art Unit 2623